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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,092	11/19/2003	Steve Wang	1315.68260	7286
24978	7590	03/31/2005	EXAMINER	
GREER, BURNS & CRAIN 300 S WACKER DR 25TH FLOOR CHICAGO, IL 60606			HAYES, BRET C	
			ART UNIT	PAPER NUMBER
			3644	

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

	<b>Application No.</b>	<b>Applicant(s)</b>
	10/717,092	WANG, STEVE
<b>Examiner</b>	<b>Art Unit</b>	
Bret C Hayes	3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 22 November 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 11 and 19 is/are allowed.
- 6) Claim(s) 1-10, 12-18, 20 and 21 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 19 November 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 – 7, 9, 10, 12 – 18, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Application Publication No. US 2003/0145799 A1 to Hays et al. (*Hays*).

3. Re – claim 1, Hays discloses the claimed invention including a kennel, Fig. 9, for example, comprising: a plurality of side panels, as in Fig. 10, for example, configured for coupling to one another; and a gate panel 312 comprising: a pair of ends, each of said ends configured for connecting to one of said side panels to form an enclosure; a doorway, on the left of Fig. 9, positioned between said ends and defined by at least one doorway frame member 308 having at least one boss\* formed\*\* therewith; and a door 313 configured for opening and closing said doorway and having at least one door frame member 320 directly and rotatably attached to the boss of said doorway frame member 308. \*Regarding at least one boss, Hays shows in Fig. 9, the doorway frame member 308 including elements for attaching the door 313 at the top and bottom. Given the definition of the term “boss” as ‘a circular protuberance’ and that the door 313 appears to be able to rotate about these ‘protuberances’, one can reasonably interpret them to be the claimed at least one boss. \*\*Regarding ‘formed therewith’, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the at least one

boss be ‘formed therewith’, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art.

*Howard v. Detroit Stove Works*, 150 U.S. 164 (1983). Further, it has been held that the term “integral” is sufficiently broad to embrace constructions united by such means as fastening and welding. *In re Hotte*, 177 USPQ 326, 328 (CCPA 1973).

4. Re – claim 2, Hays further discloses wherein said door includes a secure fitting 116 directly connecting said door frame member 320 to said doorway frame member 308.

5. Re – claim 3, Hays further discloses wherein said secure fitting 116 encircles at least a portion of said doorway frame member, as at the bottom, to facilitate rotation of said door 313 about a central cylindrical axis.

6. Re – claim 4, Hays further discloses wherein said at least one door frame member 320 includes a horizontal member having an end provided with said secure fitting 116.

7. Re – claim 5, Hays further discloses wherein said secure fitting 116 comprises a sleeve-like member having an inner portion configured for receiving a vertical frame member, best seen in Fig. 7, for example.

8. Re – claim 6, Hays further discloses wherein said at least one door frame member 320 comprises a pair of horizontal members each having a secure fitting 116 configured for receiving said door 313 and rotating between a closed position and an open position.

9. Re – claim 7, Hays further discloses wherein said doorway comprises: a pair of elongated vertical frame members, a pair of horizontal frame members connected to said vertical frame members to define a central region; and a barrier, the wire, positioned in said central region and connected to said horizontal and vertical frame members, as seen in Figs. 9 and 10, for example.

10. Re – claim 9, Hays further discloses wherein said doorway and said door are integrally formed. It has been held that the term “integral” is sufficiently broad to embrace constructions united by such means as fastening and welding. *In re Hotte*, 177 USPQ 326, 328 (CCPA 1973).

11. Re – claim 10, Hays further discloses wherein said doorway includes an upper frame member and a lower frame member both configured for being slidingly engaged on said door, best seen in Fig. 9, for example.

12. Re – claims 12 – 16, see rejections of claims 1 – 7, 9 and 10 above, as applicable.

13. Re – claim 17, Hays discloses, as in Fig. 9, for example, a door 313 for a gate panel of a kennel, comprising: a barrier – the wire; a first elongated door frame member 320 having a central cylindrical axis and connected to said barrier; and at least two door cross-frame members – upper and lower – each connected to first and second frame members – the second member being the one opposite 320, and wherein said first elongated door frame member 320 rotates about said central cylindrical axis. Further, see rejection of claim 1 above.

14. Re – claim 18, Hays further discloses wherein said first elongated door frame member 320 is configured to rotate about said central cylindrical axis between a closed position and an open position.

15. Re – claim 20, Hays further discloses wherein said door cross-frame members each include a pair of bosses, lower and left most portion of Fig. 7, item 116, for example, configured for engaging a doorway frame member 320.

16. Re – claim 21, Hays as applied to claim 1 above, discloses a kennel comprising: a plurality of side panels configured for coupling to one another; and a gate panel comprising: a pair of ends, each of said ends configured for connecting to said side panels to form an

enclosure; a doorway positioned between said ends and defined by one or more doorway frame members; and a door having one of said one or more doorway frame members as a door frame member and configured for opening and closing said doorway.

***Claim Rejections - 35 USC § 103***

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hays as applied above in view of US Patent No. 4,422,622 to Broski, Jr. (*Broski*).

19. Re – claim 8, Hays discloses the claimed invention including the barrier comprising a wire grid **100** using wire **102**, except for the barrier being wire cloth.

20. Broski teaches “woven wire fencing fabric section **34**” at col. 2, line 20 in the same field of endeavor for the purpose of constructing fence panels for dog kennels.

21. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hays to include wire cloth as taught by Broski in order to construct a dog kennel.

***Allowable Subject Matter***

22. Claims 11 and 19 are allowed.

23. The following is an examiner’s statement of reasons for allowance: see previous office action for details regarding allowability.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Response to Arguments***

24. Applicant's arguments filed 22 NOV 04 have been fully considered but they are not persuasive.
25. In response to the argument that Hays does not disclose the claimed 'at least one boss', examiner disagrees. The phrase 'at least one boss formed therewith' has been rejected based on the Hays reference due, in part, to the definition of the term 'boss', and further, in light of *Howard v. Detroit Stove Works*, 150 U.S. 164 (1983) and *In re Hotte*, 177 USPQ 326, 328 (CCPA 1973).

***Conclusion***

26. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to Bret Hayes at telephone number (703) 306 – 0553. Due to a relocation, after April 4, 2005, that telephone number will become disconnected and a new telephone number will be in effect (571) 272 – 6902. The examiner can normally be reached Monday through Friday from 5:30 am to 3:00 pm, Eastern Standard Time.

If attempts to contact the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu, can be reached at (703) 305 – 7421 (after April 4, 2005 (571)272 – 7045). The fax number is (703) 872 – 9306.

bh

3/20/05



TERI PHAM LUU  
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